

Appl. No. 10/000,228
Response Dated May 10, 2005
Reply to Office Action of February 10, 2005

REMARKS

Claims 1-38 stand in this application. Claims 1, 2, 3, 12, 13, 14, 17, 23, 25, 27, 28, 35, and 36 are amended. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Claims 1-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPN 6,133,904 (Tzirkel-Hancock) in view of USPN 5,884,262 (Wise). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to the MPEP, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Claims 1-38 define over the Tzirkel-Hancock reference and the Wise reference whether taken alone or in combination. As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of

Appl. No. 10/000,228
Response Dated May 10, 2005
Reply to Office Action of February 10, 2005

obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1-38. For example, claims 1, 12, 17, 23, 25, 27, and 35 are amended to recite a "subrogation indicator." According to the Office Action, the missing language is disclosed by Tzirkel-Hancock at column 31, lines 29-55, and line 67 to column 32, line 4. Applicant respectfully disagrees.

Applicant submits that Tzirkel-Hancock fails to disclose, teach or suggest the missing features of claims 1, 12, 17, 23, 25, 27, and 35, as amended. At column 31, lines 29-55, and line 67 to column 32, line 4, Tzirkel-Hancock states:

In the language model shown in FIG. 17, if a word can be followed by two different words, then no preference is placed on which of the two words will follow that word. In an alternative embodiment, it would be possible to weigh some sequences of words more favourably than others. For example, for the phrases illustrated in FIG. 17a, it may be known that the phrase "make it more . . ." (followed by a colour) is more common than the phrases "make it smaller", or "make it larger" or "make it brighter". Therefore, the transition from node N.sub.7 to node N.sub.8 is made stronger compared to the transition from node N.sub.7 to the end node N.sub.n. This can be achieved by using weighing factors which weigh the cumulative distances being propagated from node N.sub.7 to the input of words "more", "smaller", "larger" and "brighter".

As those skilled in the art will realise, the language model used to define the allowed sequences of words does not have to be a Bigram model, but could be any known type of language model, for example a finite state grammar model. If the type of language model used is changed, then some modifications would have to be made to the dynamic programming matching process described above, but such modifications would be apparent to those skilled in the art of speech recognition. However, the essential features of the matching process would remain unchanged, as these are designed to be suitable for use in any pattern matching process. . .

Appl. No. 10/000,228
Response Dated May 10, 2005
Reply to Office Action of February 10, 2005

In an alternative embodiment, it would be possible to update existing word models during the training session, using input phrases which contain examples of the words for which there are already word models.

Consequently, Tzirkel-Hancock fails to disclose, teach or suggest at least the language "subrogation indicator" as recited in the claimed subject matter. Wise also fails to disclose, teach or suggest the language "subrogation indicator" as recited in the claimed subject matter. Accordingly, the Tzirkel-Hancock and the Wise references, taken alone or in combination, fail to disclose, teach or suggest the language "subrogation indicator" as recited in the claimed subject matter. Therefore, Applicant respectfully requests removal of the obviousness rejection with respect to claims 1, 12, 17, 23, 25, 27, and 35, as amended.

Claims 2, 3, 13, 14, and 28 are amended to comply with proper dependent form.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. See MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claims 2-11, 13-16, 18-22, 24, 26, 28-34, and 36-38 is respectfully requested. These claims also are non-obvious and patentable over Tzirkel-Hancock and Wise, taken alone or in combination, at least on the basis of their dependency from claims 1, 12, 17, 23, 25, 27 and 35. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

For at least the above reasons, Applicant submits that claims 1-38 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited

Appl. No. 10/000,228
Response Dated May 10, 2005
Reply to Office Action of February 10, 2005

references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-38 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

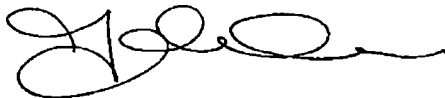
The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

Appl. No. 10/000,228
Response Dated May 10, 2005
Reply to Office Action of February 10, 2005

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



/John F. Kacvinsky/, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: May 10, 2005

12400 Wilshire Blvd., 7th Floor
Los Angeles, California 90025

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at:

1-703-872-9306
Facsimile Number
[Signature] 5-10-05
Signature Date